

A meeting of the New Hampshire Water Well Board was held on August 4th, 2005 at 9:00 a.m., in rooms 111& 112, 29 Hazen Drive, Concord, NH, 03302.

Present were: Bart Cushing, Chairman
Rene Pelletier, Secretary
Board members: Terrell Swain, Jeffrey Tasker, Peter Caswell, David Wunsch and Christopher Covell.
Staff: Rick Schofield and Genevieve Al-Egaily
Appeals Clerk: Michael Sclafani
DES Attorney: Kerry Barnsley
Water Well Board Attorney: Wynn Arnold

Chairman Cushing brought the meeting to order at 9:00 a.m., welcomed visitors and introduced members of the Board.

Approval of Minutes

Upon motion by Mr. Swain, seconded by Mr. Tasker, the Board voted unanimously to accept the Minutes of the June 16th, 2005 meeting.

Administrative Hearings

Woodsome Well Drilling Inc.

Mr. Tasker recused himself from the hearing. Chairman Cushing opened the hearing identified as Docket No. LH 05-01 Woodsome Well Drilling Inc. and made opening statements. The hearing was conducted to determine if the water well contractor license of Woodsome Well Drilling Inc. should be revoked under RSA 482-B:8 for fraud, gross negligence, and misconduct in the industry relating to the construction of the well at 116 Pine Hill Road, Madison, NH on the property owned by Mr. D'Amore. (Refer to the official records of the hearing for specific testimony)

Both parties were in attendance.

Chairman Cushing called Mr. Woodsome and his counsel attorney Peter Taylor to the table.

Mr. Schofield was sworn in, gave an overview of the case, and answered questions for the Board.

Attorney Peter Taylor and Danny Woodsome were sworn in. Attorney Taylor made opening statements and questioned Mr. Woodsome about the case. Mr. Woodsome testified, and answered questions for the Board.

Mr. Woodsome testified that there had been problems with the well that he had drilled for Mr. D'Amore. To fix the problem, Mr. Woodsome had drilled a new well for Mr. D'Amore. The well had been hydro-fractured by Goodwin Well and Southern Maine Pump Co. had installed the pump in the new well. However, he had not yet decommissioned the old well.

Mr. Fred D'Amore was called to the table and sworn in. He testified to the facts of the case and answered questions for the Board.

The hearing was adjourned at 10:00 a.m.

Roth Artesian Well Company

Chairman Cushing opened the hearing identified as Docket No. LH 05-02 Roth Artesian Well Company and made opening statements. The hearing was conducted to determine if the water well contractor license of Roth Artesian Well Company should be suspended under RSA 482-B:8 I (d) and (e), for failure to file well completion reports. (Refer to the official records of the hearing for specific testimony)

Chairman Cushing called Mr. Charles Roth to the table.

Mr. Schofield was sworn in and he supplied all parties with additional documents, gave an overview of the case, and answered questions from the Board.

Mr. Charles Roth was sworn in, testified to the facts in the case, and answered questions from the Board.

Mr. Roth testified that he was not good at record keeping and was unaware until last year that his license could be suspended for not filing reports. He stated that he had a difficult time finding address information to complete the reports. However, filing the reports late would not diminish the other information required on the reports.

Upon a motion by Mr. Swain and seconded by Mr. Caswell, the Board voted and unanimously passed the motion to have the hearing continued until the deliberative session.

Valley Artesian Well Company Inc.

Chairman Cushing opened the hearing identified as Docket No. LH 05-03 Valley Artesian Well Company Inc. and made opening statements. The hearing was conducted to determine if the water well contractor license of Valley Artesian Well Company Inc. should be suspended under RSA 482-B:8, I (d) and (e), for failure to file well completion reports. Chairman Cushing denied the Motion for his recusal submitted by attorney Cole on behalf of Valley Artesian Well Company. (Refer to the official records of the hearing for specific testimony)

Chairman Cushing called Mr. Philip Aylward and his counsel attorney David Cole to the table.

Mr. Philip Aylward was sworn in. Attorney Cole requested that the motion for recusal be reconsidered. The Board denied the motion. He then brought a motion for dismissal on the grounds that the hearing was premature and that the Board's rules did not permit the suspension of the license under these circumstances.

Upon motion by chairman Cushing and seconded by Mr. Covell, the Board voted unanimously in favor of hearing the merits of the case before ruling on attorney Cole's motion to dismiss.

Mr. Schofield was sworn in and provided documents to the members of the Board and attorney Cole.

Attorney Cole objected to the distribution of the documents on the grounds that the Board's rules require all documents to be provided at least five days prior to the hearing.

Upon motion by Chairman Cushing, seconded by Mr. Covell, and unanimously passed by the Board, the documents provided by Mr. Schofield were excluded from the hearing.

Upon motion by Mr. Swain, seconded by Mr. Tasker, and unanimously passed by the Board, the hearing was continued until a later date.

K Beebe Inc.

Chairman Cushing opened the hearing identified as Docket No. LH 05-04 K Beebe Inc. at 11:45 a.m. and made opening statements. The hearing was conducted to determine if the water well contractor license of K Beebe Inc. should be suspended under RSA 482-B:8, I (d) and (e), for failure to file reports. (Refer to the official records of the hearing for specific testimony)

Chairman Cushing called K Beebe to the table and received no response. In accordance with We 206.14 (a) failure to appear, the hearing proceeded.

Mr. Schofield was sworn in, and supplied additional documents to the Board, gave an overview of the case, and answered questions.

The Board noted that the one additional report submitted by K Beebe Inc. since the previous Board meeting was for a well drilled in May of 2004. This was during the time period covered by the affidavit submitted by K Beebe Inc. which stating that he had not drilled any wells from June 2003 through June 2004 in the state of NH.

Upon motion by Mr. Swain and seconded by Mr. Pelletier, the Board voted that the hearing be continued until the deliberative session.

Gordon W. Furbish Well Drilling

Chairman Cushing opened the hearing identified as Docket No. LH 05-05 Gordon W. Furbish Well Drilling at 12:02 pm and made opening statements. The hearing was conducted to determine if the water well contractor license of Gordon W. Furbish Well Drilling should be suspended under RSA 482-B:8, I (d) and (e), for failure to file reports. (Refer to the official records of the hearing for specific testimony)

Chairman Cushing called the representatives of Gordon W. Furbish Well Drilling to the table. Mr. Gordon W. Furbish and Harriette Furbish were sworn in, testified to the facts in the case, and answered questions from the Board.

Harriette Furbish testified that she had submitted all of the reports for wells drilled in NH. However, there were six additional reports that she had sent, which were not received by the program. She provided the Board with copies.

Mr. Schofield was sworn in, supplied additional documents to the Board, gave an overview of the case, and answered questions.

Upon motion by Mr. Swain, seconded by Mr. Tasker, and unanimously passed by the Board, the hearing was continued until the deliberative session.

Reporting

A & W Artesian Well Company and McKenna Well Drilling Inc.

Chairman Cushing called Bruce Follett to the table to discuss the reporting and license numbers of A & W Artesian Well Company and McKenna Well Drilling Inc. The Board discussed with Mr. Follett the importance of insuring that the reports filed by each company listed the correct license number. As the qualified individual, the responsibility of insuring the accuracy of the information on the reports was his.

Upon motion by Mr. Swain and seconded by Mr. Caswell, the Board determined that no further action was to be taken regarding the licenses' of A & W Artesian Well Company and McKenna Well Drilling Inc.

Chairman Cushing called Luke Fowler of Fowler Well Drilling to the table. Mr. Schofield reported that Mr. Fowler had been unable to stay and had asked to have his case heard at the next meeting.

Gap Mountain Drilling LLC

Chairman Cushing called Chris Parker of Gap Mountain Drilling LLC to the table. Mr. Schofield reported that 35 additional reports had been submitted since the last meeting and 34 of the reports were late. Mr. Parker stated that he had not realized that he was the qualified individual for the business or that as the qualified individual he was responsible for insuring that the reports were filed. He had thought his partner Alfred Sawyer a licensed water well contractor was allowed to sign the reports and that the responsibility of filing the reports could be handed off to him. The Board also discussed with Mr. Parker the confusion that was occurring as a result of the name of his company. Mr. Schofield informed the Board that the Secretary of State's office had agreed to notify the Board when they received a request for a name that was similar to that of an already existing business. Mr. Pelletier suggested that the Board take no action against Mr. Parker for his late reports unless the problem continued.

Upon motion by Mr. Cushing and seconded by Mr. Covell, the Board placed Mr. Parker, Gap Mountain Drilling LLC on probation for one year for filing late reports.

Gosselin's Artesian Wells

Chairman Cushing called Daniel Gosselin to the table. Mr. Gosselin submitted a report for a well drilled for Lucille Lalande in 2004 and explained that Gosselin's Artesian Wells rarely drills wells in New Hampshire.

The Board voted to take no action.

Green Mountain Well Company Inc.

Chairman Cushing called Edward Stromberg of Green Mountain Well Company Inc. to the table. Mr. Schofield reported that one additional report had been received since the last meeting. Mr. Stromberg stated that he had missed sending in one report and the report had now been submitted. Upon motion by Mr. Swain and seconded by Mr. Tasker, the Board determined that no further action would be taken in this case.

William Hartley of Hartley Industries

Chairman Cushing called William Hartley of Hartley Industries to the table. The Board informed Mr. Hartley that no reports had been received for the 2004 year and only one had been received for 2005. The Board also discussed with Mr. Hartley the importance of filing reports. Mr. Schofield reported that one additional report had been received since the last meeting and Mr. Hartley had been fined in the past for failure to file reports.

Mr. Hartley stated that he was aware that he had been delinquent in filing reports since August. However, he had not realized that the reports were not being filed prior to August 2004. He stated that he thought his driller, who had been working for him until August 2004, had been filing the reports.

Mr. Swain proposed a motion that Mr. Hartley be placed on probation for two years for failure to file reports. Mr. Wunsch seconded the motion. Mr. Covell then amended the motion to place Mr. Hartley of Hartley Industries on probation for two years for failure to file reports and recommend the case to DES for an administrative action. The amendment was seconded by Mr. Pelletier. Chairman Cushing amended the motion to replace "recommend" with "refer" to DES. The amended motion was passed.

Lynde Well Drilling Inc.

Chairman Cushing called Kenneth Lynde of Lynde Well Drilling Inc. to the table. The Board discussed with Mr. Lynde the importance of filing reports and requested that any outstanding report be sent in. Mr. Schofield reported that one additional report had been received since the last meeting and this report was on time. Chairman Cushing stated that he understood there were no problems with Mr. Lynde's reporting. Upon motion by Mr. Pelletier and seconded by Mr. Tasker, the Board unanimously voted to take no action in this case.

Norman R. Davis Construction

Chairman Cushing called Norman R. Davis of Norman R. Davis Construction to the table. Mr. Schofield reported that Mr. Davis had sent a letter stating that he would be unable to attend the meeting. Fourteen additional reports had been sent in for wells constructed from 2000 through 2005. Upon motion by Mr. Pelletier and seconded by Mr. Covell the Board voted 3 to 2 with one abstention to referred the matter to DES for administrative action with no action to be taken by the Board against the license.

Western Maine Water Wells Inc.

Mr. Cushing called Bruce Champney of Western Maine Water Wells Inc. to the table. Mr. Schofield reported that only one well report had been filed since 2002. Mr. Champney stated that he assumed he filed all of the reports for any wells that he drilled in New Hampshire and that he did not drill many wells in the state. However, he offered no evidence to the Board to support his statement. He also stated that he had drilled some wells in the state this fall.

Chairman Cushing asked Mr. Champney about his previous statement regarding drilling wells in the fall. Mr. Champney responded that he was referring to recently, less than 90 days.

Mr. Pelletier made a motion, which was seconded by Mr. Covell, to suspend the discussion at this time to give Mr. Champney time to check his records. Mr. Swain amended the motion to require Mr. Champney to bring evidence to the next meeting showing that he had not drilled any wells in the state since 2002 other than the one he reported in 2004. The amended motion was seconded by Mr. Tasker and passed by the Board.

Complaints

Paul Comeau / Comac Pump and Well LLC.

Mr. Schofield gave the Board an overview of the complaint. He stated that the complaint alleged that the well had sand and sediment in the water and the water would occasionally run. Comac Pump and Well had recommended that the owner have the well hydro-fractured and have a larger pump installed. Downeast Drilling was hired to do the Hydro-fracturing and they lost a pump down the well. Downeast Drilling then conducted a camera survey of the well and found that there was a 1 to 2 foot gap between the drive shoe and the bottom of the 8 inch hole. Mr. Schofield also noted that he had viewed the film and that no water was entering the well below the casing during the camera survey.

Chairman Cushing called Paul Comeau to the table.

Mr. Comeau stated that he had called Comac Well and Pump Co. because of a lack of water and because there was sediment in the water. He explained that Comac Pump and Well had tried to diagnosis the problem over the phone. Mr. Comeau was told to shut the pump off and drop ice cubes down the well to determine the approximate water level in the well. He also stated that Comac Pump and Well had refused to come out without a guarantee of payment. Comac Pump and Well had sent him a bill for a heavier pump than had been arranged for through his contractor. When he would not pay the additional cost Comac Pump and Well came back and removed the heavier pump and reinstalled the original pump. He stated that Comac had suggested that he have the well hydro-fractured, which he did. After the hydro-fracturing he noted that he could hear things dropping into the well. He also stated that he did not see the wellhead move during the hydro-fracturing process. The wellhead had been left higher than normal because he had requested that Comac Pump and Well add an additional 18 inches to the normal height of the wellhead for landscaping and grading purposes.

Chairman Cushing then called all parties from Comac Pump and Well to the table.

Scott Costa stated that the homeowner had told them that he had sediment in his water and that the water kept running out. However, their investigation conducted on June 29th indicated that there were no problems with the well. The pump needed to be larger and be set down deeper because it was a low flow well. This work had been done. However, Mr. Comeau had refused to pay for the upgrades to the pump so they had removed the larger pump and placed the original pump back in the well and suggested that the homeowner have the well hydro-fractured to

increase the flow. The construction problems were the result of the hydro-fracturing work conducted by Downeast Drilling. Mr. Costa stated that after the hydro-fracturing was done, the homeowner would not allow them to come back to the site. When they were finally allowed to go out and conduct their own camera survey, he noted that the grounding lug had broken off, wire nuts were loose, the gasket for the well cap had been cut, and there was a hole in the side of the casing. Mr. Costa stated that when he looked at the video, he could see that the casing had originally been in the bedrock. He also stated that their rigs have digital indicators on them and for this reason it was virtually impossible not to get the pipe all the way to the bottom of the hole without knowing about it.

Gil Costa stated that he was there when the pipe was set and it was not sticking up two feet. The problems were the result of work done on the well by someone other than Comac Pump and Well.

Deana Connors stated that the homeowner had been volatile on the phone and it had taken months for Comac Pump and Well to be allowed back on the site. They had to hire an attorney before they were allowed back on the site.

Nancy Randlov /Fowler Well Drilling

Mr. Schofield reported that Mr. Fowler had left because he was unable to stay. The Board decided that the matter would be taken up at the next meeting.

Linda & George Maxfield / Young Brothers Pump Company Inc.

Mr. Schofield reported that Mrs. Maxfield would not be at the meeting and did not wish to pursue the matter further. She was satisfied with the resolution she had reached with Young Brothers Pump Company Inc.

Michael Young of Young Brothers Pump Company Inc. stated that they had replaced Mrs. Maxfield's pump and some frayed wire. Mrs. Maxfield then had the old pump tested and was told that there was nothing wrong with it. So he had reinstalled the old pump and refunded her money for the new pump. However, the old pump had not been properly tested and would not shut off. So he had turned the pressure switched down so that the pump would shut off. He also stated that he had offered to refund the money that she had paid for some additional work that he had done. She did not take that refund.

Mr. Schofield stated that the program would not pursue any code violation against Young Brothers Pump Company Inc.

Upon motion by Mr. Covell and seconded by Mr. Caswell the Board voted to dismiss the complaint.

Continuing Education- Request for Exemption

James Groetz

Mr. Schofield reported that James Groetz was requesting a waiver for his continuing education requirement. Mr. Schofield stated that after the continuing education seminar in Salem was cancelled he had inadvertently missed notifying Mr. Groetz about the date of the rescheduled seminar.

Mr. Covell made a motion, which was seconded by Mr. Tasker to give Mr. Groetz a waiver on his continuing education credits until he was able to fulfill the requirement.

Upon motion by chairman Cushing and seconded by Mr. Swain the Board granted Mr. Groetz a waiver for his continuing education credits for the year.

Administrative Hearings Deliberative Session

K Beebe Inc.

The Board deliberated.

Gordon W. Furbish Well Drilling.

The Board deliberated.

Roth Artesian Well Company.

The Board deliberated.

Woodsome Well Drilling Inc.

The Board deliberated.

Licensing-New Applicants

Mr. Schofield reported that there were eight new applicants.

The Board voted to allow Roger Skillings, Ken Savage Jr., and Brian E. David, to sit for the exam. The Board voted to allow Jeff Bemis to sit for the exam with the understanding that the Board may not approve his application for a license. The Board also voted to allow Jeffrey Quinn to obtain a license in his own name and not that of the Company. A letter would then be sent to Roger Skillings informing him that LA Hanna & Sons no longer have a qualified individual. The Board noted that Michael J Dobrowoski was missing one reference from his application and Kelly M Dobrowoski was missing two references from her application.

The meeting was adjourned.

Rene Pelletier
Water Well Board Secretary